

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

March 13, 2015

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawaii

SP15STAT01

Hawai'i, Maui

Sale and Independent Award of Six (6) Concession and Mobile Concession Agreements by Means of Sealed Bid Auctions and Delegation to the Chairperson to Issue the Invitation for Bids (IFB), Independently Award Each Bid and Give Notice to Proceed for the Following State Parks:

- (1) Hāpuna Beach State Recreation Area, Waialea Bay Section, for Mobile Food, Beverage and Beach Equipment Rental Purposes, TMK: (3) 6-6-002:031 (por.);
- (2) Kua Bay at Kekaha Kai State Park, for Food, Beverage and Beach Equipment Rental Purposes, TMK: (3) 7-2-004:009 (por.);
- (3) Akaka Falls State Park, for Food, Beverage and Gift Item Sale Purposes, TMK: (3) 2-8-011:018 (por.);
- (4) Wailuku River State Park, Rainbow Falls Area, for Food, Beverage and Gift Item Sale Purposes, TMK: (3) 2-3-027:001 (por.);
- (5) Waianapanapa State Park, for Food, Beverage and Gift Item Sale Purposes TMK: (2) 1-3-005:009 (por.) and
- (6) Waianapanapa State Park, for Beverage Vending Machine Purposes, TMK: (2) 1-3-005:009 (por.)

Delegate Authority to the Chairperson to Terminate Revocable Permit No. SP0022 to Maui Soda and Ice Works, Ltd, for Beverage Concession Vending Purposes, Waianapanapa State Park, TMK: (2) 1-3-005:009 (por.)

REQUEST:

The DLNR Division of State Parks (State Parks) requests approval for the sale and independent award six (6) concession agreements by means of sealed bid auctions for mobile concession and concession agreement purposes as indicated herein and delegation to the Chairperson to issue Invitation for Bidders (IFB), independently award each bid and give the notice to proceed. State Parks also requests authority delegated to the Chairperson to terminate the existing revocable permit issued to Maui Soda and Ice Works, Ltd., for the purpose of re-bidding the concession opportunity in item 6 above.

ITEM E-4

LEGAL REFERENCE:

Sections 102-2, 171-14, 16, 26, 41, 55, 56, 184-3, and other applicable sections of Chapter 171 and Chapter 102, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands at:

1. Waialea Bay at Hāpuna Beach State Recreation Area, Waimea, (South Kohala) Hawai'i TMK: (3) 6-6-002:031 (por.);
2. Kua Bay at Kekaha Kai State Park (Hawai'i), TMK: (3) 7-2-004:009 (por.);
3. Akaka Falls State Park (Hawai'i), TMK: (3) 2-8-011:018 (por.);
4. Wailuku River State Park, Rainbow Falls area, TMK: (3) 2-3-027:001 (por.);
5. Waianapanapa State Park, TMK: (2) 1-3-005:009 (por.)
6. Waianapanapa State Park, TMK: (2) 1-3-005:009 (por.)

all as shown on the attached tax map keys and descriptions labeled Exhibit A.

AREA:

- (1) Waialea Bay at Hāpuna Beach State Recreation Area, 500 sf, more or less
- (2) Kua Bay at Kekaha Kai State Park, 500 sf, more or less
- (3) Akaka Falls State Park, 500 sf, more or less
- (4) Wailuku River State Park, Rainbow Falls area, 500 sf, more or less
- (5) Waianapanapa State Park, 500 sf, more or less, for one (1) vending machine concession
- (6) Waianapanapa State Park, 500 sf for one (1) mobile concession

all subject to confirmation by the Department of Accounting and General Services, Survey Division

ZONING:

- (1) Waialea Bay, Hāpuna Beach State Recreation Area
State Land Use District: Conservation
Hawai'i County Zoning: Open
- (2) Kua Bay, Kekaha Kai State Park
State Land Use District: Conservation
Hawai'i County Zoning: Open

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- (3) Akaka Falls State Park
State Land Use: Conservation
Hawai'i County Zoning: Open
- (4) Rainbow Falls, Wailuku River State Park
State Land Use: Conservation
Hawai'i County Zoning: Open
- (5) Waianapanapa State Park
State Land Use: Conservation
Maui County Zoning: Rural
- (6) Waianapanapa State Park
State Land Use: Conservation
Maui County Zoning: Rural

TRUST LAND STATUS:

- (1) Waialea Bay, Hāpuna Beach State Recreation Area
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____
NO x
- (2) Kua Bay, Kekaha Kai State Park
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____
NO x
- (3) Akaka Falls State Park
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____
NO x
- (4) Wailuku River State Park, Rainbow Falls,
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____
NO x
- (5) Waianapanapa State Park
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____
NO x
- (6) Waianapanapa State Park
Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ____

NO x

CURRENT USE:

- (1) Hāpuna Beach State Recreation Area, Waialea Bay. Encumbered by Governor's Executive Order No. 4333 to the Division of State Parks for park and related purposes.
- (2) Kua Bay, Kekaha Kai State Park (Hawai'i) Encumbered by Governor's Executive Order No. 3677 to the Division of State Parks for park purposes.
- (3) Akaka Falls State Park (Hawai'i) Encumbered by Governor's Executive Order No. 1992 to the Division of State Parks for addition to Akaka Falls Park.
- (4) Wailuku River State Park, Rainbow Falls area, Encumbered by Governor's Executive Order No. 3905 to the Division of State Parks for Wailuku River State Park purposes.
- (5) Waianapanapa State Park Encumbered by Governor's Executive Order No. 4183 to the Division of State Parks for state park purposes. The Board issued a revocable permit to Maui Soda and Ice Works, Ltd., to operate a beverage vending machine concession adjacent to an existing bathroom near the beach area parking lot.
- (6) Waianapanapa State Park Encumbered by Governor's Executive Order No. 4183 to the Division of State Parks for state park purposes. The Board issued a revocable permit to Maui Soda and Ice Works, Ltd., to operate a beverage vending machine concession adjacent to an existing bathroom near the beach area parking lot.

CONCESSION AGREEMENT TERM:

Five (5) years beginning on the Commencement Date for each concession agreement except for concession No. 1 at Waialea Bay, Hapuna Beach State Recreation Area which is proposed for a two (2) year period.

COMMENCEMENT DATE:

Sixty (60) days after the date of sale; provided that if such date is not on the first day of any month, the commencement date shall be the first day of the month following such date; and further provided that the Chairperson may amend the commencement date for good cause.

MINIMUM MONTHLY UPSET RENT:

To be determined by staff or by independent appraisal establishing minimum upset rent, subject to review and approval by the Chairperson.

MINIMUM PERCENTAGE MONTHLY UPSET RENT:

Percentage of gross revenue from all sources within the premises, excluding State excise tax. The minimum upset percentage to be determined by staff or independent appraisal, subject to approval by the Chairperson.

EFFECTIVE RENTAL:

The amount of the successful bid at public auction at or above both the minimum monthly upset rent and the minimum percentage upset rent. The total rent payable under the contract shall be minimum monthly rent or the percentage rent, whichever is greater. The award shall be based on the highest minimum monthly rent bid.

METHOD OF PAYMENT:

Monthly payments, in advance. Percentage rent payments shall be due by the 25th day of the following month.

RENTAL REOPENINGS:

None.

PERFORMANCE BOND:

The bond shall be equal to two times the monthly minimum rent.

IMPROVEMENT BOND:

Equal to the amount of improvements, if any.

RENT WAIVER:

None.

PROPERTY CHARACTERISTICS:

Utilities:–

Concessionaire shall pay its fair share of all utilities for the premises, if any, including water, electricity, trash removal and other utilities, regardless of whether or not they are separately metered, as applicable and as determined by the Chairperson.

Legal access to property:–

Staff has verified that there is legal access to each of the parks offered in this submittal.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exemption Notification attached as Exhibit C.

REMARKS:

State Parks increasing relies on special fund revenue to offset declining general funds and rising operating costs. As part of a revenue generation program, entrance, permit and parking fees augment concession and lease revenue to meet fiscal challenges. State Parks believes the six concession agreements listed in this submittal will provide both needed services at the parks as well as provide additional special fund revenue.

Currently there are no existing food/beverage/gift concessions at these referenced parks, with the exception of a vending machine concession at Waianapanapa State Park (item 6) pursuant to a revocable permit issued to Maui Soda and Ice Works, Ltd. and a restaurant concession at the Hapuna Beach side of the Hapuna Beach State Recreation Area operated by Gladys Tano dba Three Frogs Café.

The following are remarks for each specific concession:

- (1) On Hawai'i island, the Waialea Bay section of the Hapuna Beach State Recreation includes a parking lot with beach access almost one mile South of the Hapuna side. State Parks has received many requests from interested bidders in a concession for that location. The State's Department of Business, Economic Development and Tourism ("DBEDT") is projecting conservative yet positive increases for visitors and the overall State economy in 2015. The current parking vendor reported a combined count from the Hapuna and Waialea lots of 75,000 vehicles in 2014.
- (2) The above comments on increased visitor and resident count extend to Kua Bay at Kekaha Kai State Park. Less than 2 miles north from the Kona airport, the access to the bay is from the Queen Kaahumanu highway, via a paved road. The seasonal, white sandy beach is frequented by residents and visitors for its clear waters to swim, snorkel, body board and surf. There are restrooms and showers but no food or beverage options. Hawai'i island staff continue to observe a steady user base of both residents and visitors.
- (3) On the East side of Hawai'i island, Akaka Falls State Park currently has a parking concession contract which began in March of 2012. The reports track only the paying out-of-state vehicles and indicate a steady number at over 30,000 vehicles per year. The DBEDT states in their latest November, 2014 release that visitor arrivals are on track to have another record-setting 2014 and further projects the increase in arrivals for 2015 to be 1.9%. The Hawaii Tourism Authority comparison report for 2013-2014 Total Visitors states an increase specifically in the Hilo area by 1.3% for 2014. The report further states an increase in cruise ship arrivals by over 10%. The Department of Transportation's report for the 2015 cruise ship arrivals project over 231,000 visitors

via 5 different cruise lines. The typical time in port is about 12 hours, which gives visitors a limited time for sightseeing tours which often include Akaka Falls. Akaka Falls is less than an hour's drive North from the harbor, making it a very scenic drive to the highly-photographed falls. There are restrooms but no food or gift concessions.

- (4) The above comments on the increased visitor count extend to Rainbow Falls at Wailuku River State Park. The drive from the Hilo harbor and the airport is about 15 minutes each. The short distance away from these main transportation hubs make it a highly frequented and photographed destination. There are restrooms but no concessions.
- (5) At Waianapanapa State Park in Maui, there are camping sites, cabin lodging, restrooms, a scenic bay area with a black sand beach, picnic areas, outdoor showers, historic heiau and the Waianapanapa caves. State Parks camping and lodging permits for 2014 totaled 3,823, an increase of 8.5% over 2013. Total campers and lodgers were 12,200 in 2014, a 6.3% increase from 2013. Many more visitors enjoy the day trips to the park as well as Hana town. Maui visitor count increased over 1.6% from 2013 to 2014 and is also projected to enjoy steady growth for 2015.
- (6) In addition to the proposed mobile concession at Waianapanapa State Park, State Parks also proposes to re-bid the existing beverage vending machine concession which has been in service since 2000. Following the expiration of the concession agreement, the Board issued a revocable permit to Maui Soda and Ice Works, Ltd., at a rental rate of thirty-five percent (35%) of gross receipts. The Board has continued the revocable permit each year since then. In 2014, State Parks earned approximately \$4,400 in rent from this concession. To ensure the highest and best use of the property, State Parks seeks to put the opportunity out through a competitive process to ensure the highest possible revenue¹.

State Parks believes these proposed concession agreements will result in the highest and best use of these areas. The Waialea Bay concession is proposed for a two (2) year period to provide flexibility for a longer term, public partnership which may involve a larger portion of the park through a possible long term land lease. State Parks will approach the Board in a future meeting to discuss any potential disposition. There is no construction planned for any of the concessions in this submittal and, therefore, is no land use as defined in Section 13-5 HAR and Chapter 183C, HRS. State Parks recommends approval of the concession opportunities described in this submittal.

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¹ However, under HRS Section 102-2 (b)(4), vending machines are excepted from competitive bidding requirements.

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RECOMMENDATION: That the Board:

1. Declare that after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the sale and independent award of six (6) concession agreements via a sealed bid auction covering the subject areas for business and/or commercial purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current concession agreement, or concession lease agreement, as appropriate;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the Chairperson to issue Invitation for Bids and delegate to the Chairperson the authority to select the highest bidder and issue the Notice to Proceed for each of the sale of six (6) concession agreements.
4. Delegate authority to the Chairperson to terminate the existing revocable permit No. SP0022, issued to Maui Soda and Ice Works, Ltd., upon award of the new beverage concession with thirty (30) days prior notice.

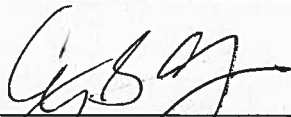
Respectfully Submitted,



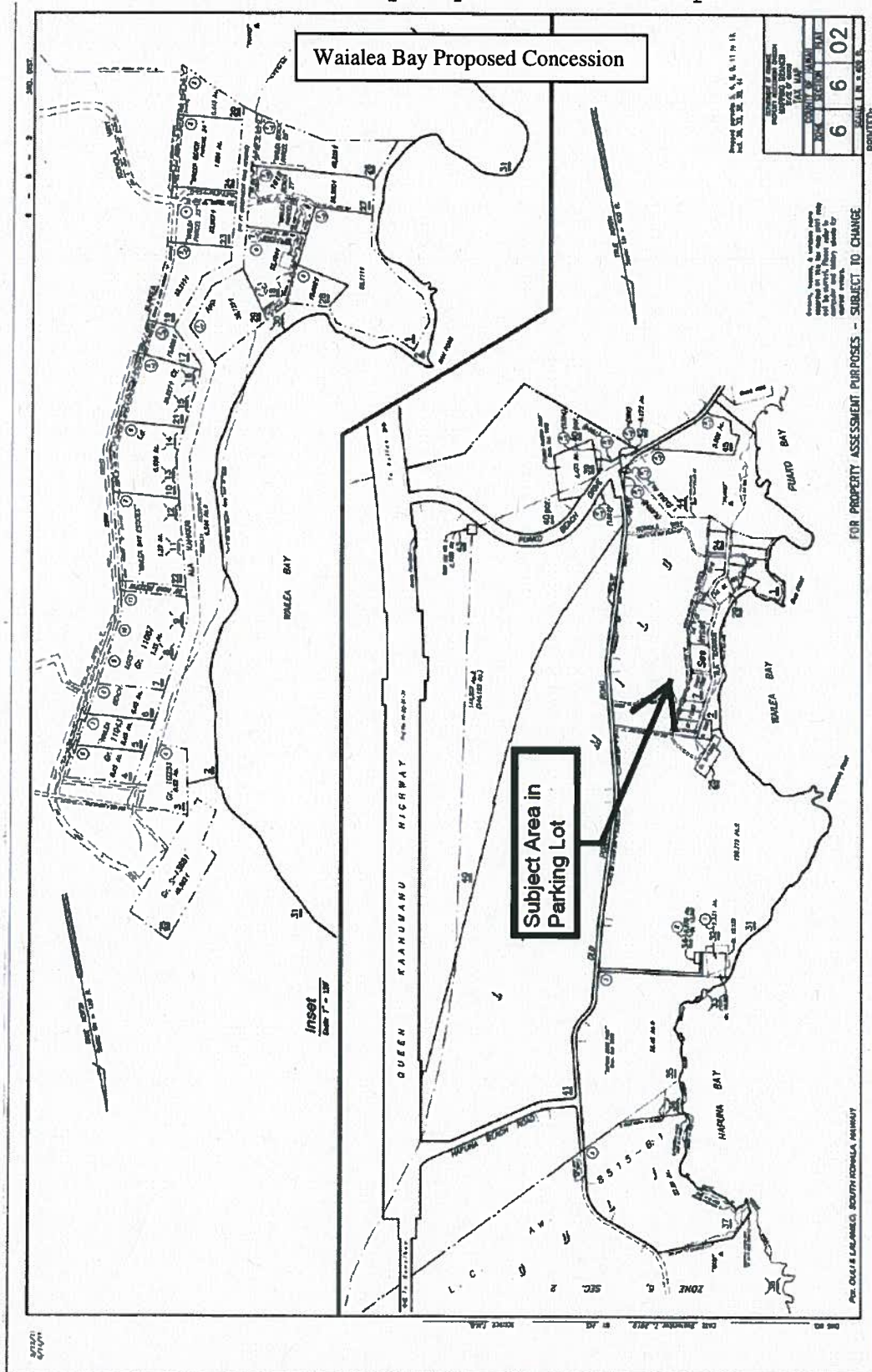
DANIEL S. QUINN
State Parks Administrator

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APPROVED FOR SUBMITTAL:



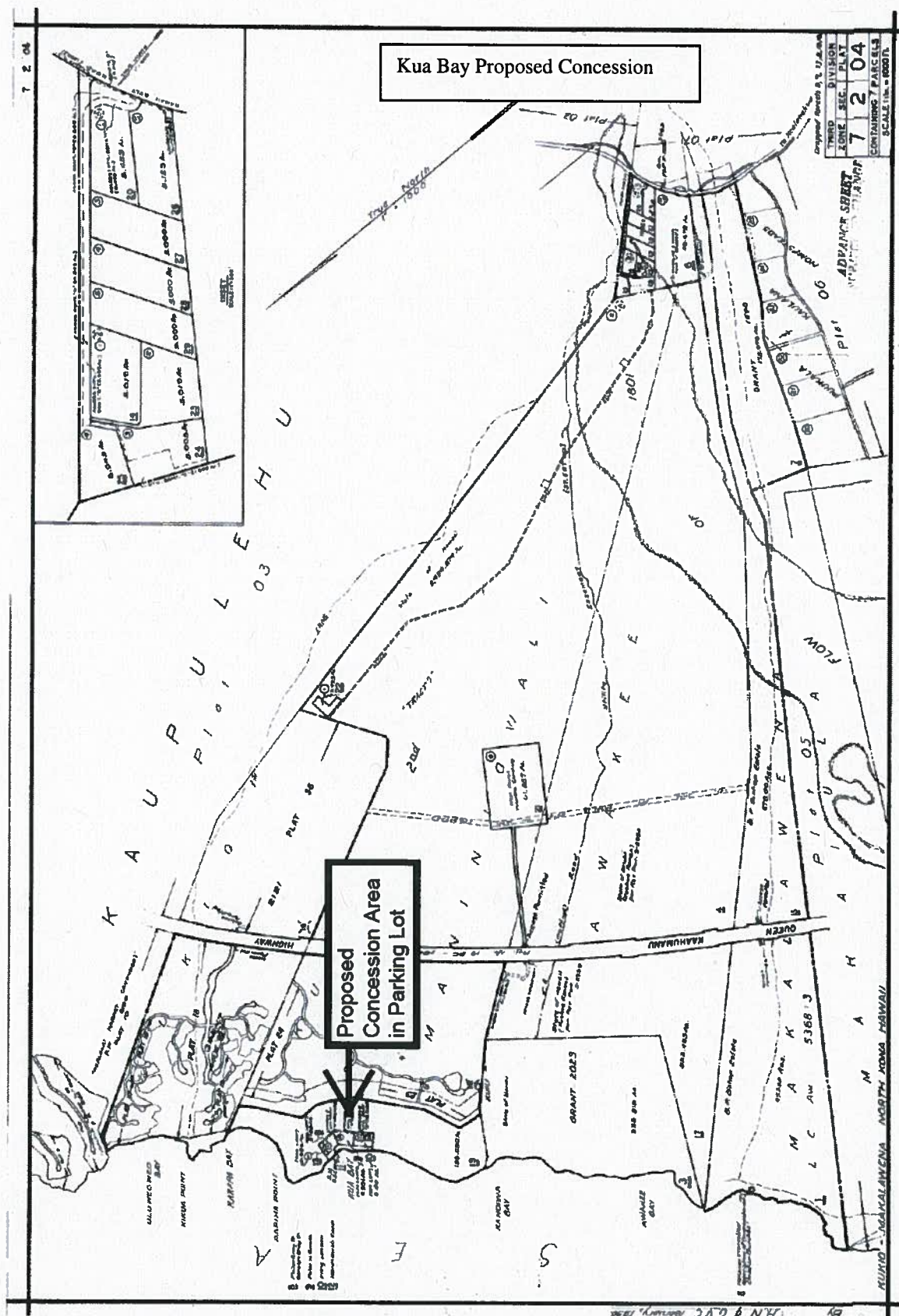
CARTY S. CHANG
ACTING CHAIRPERSON



March 13, 2015

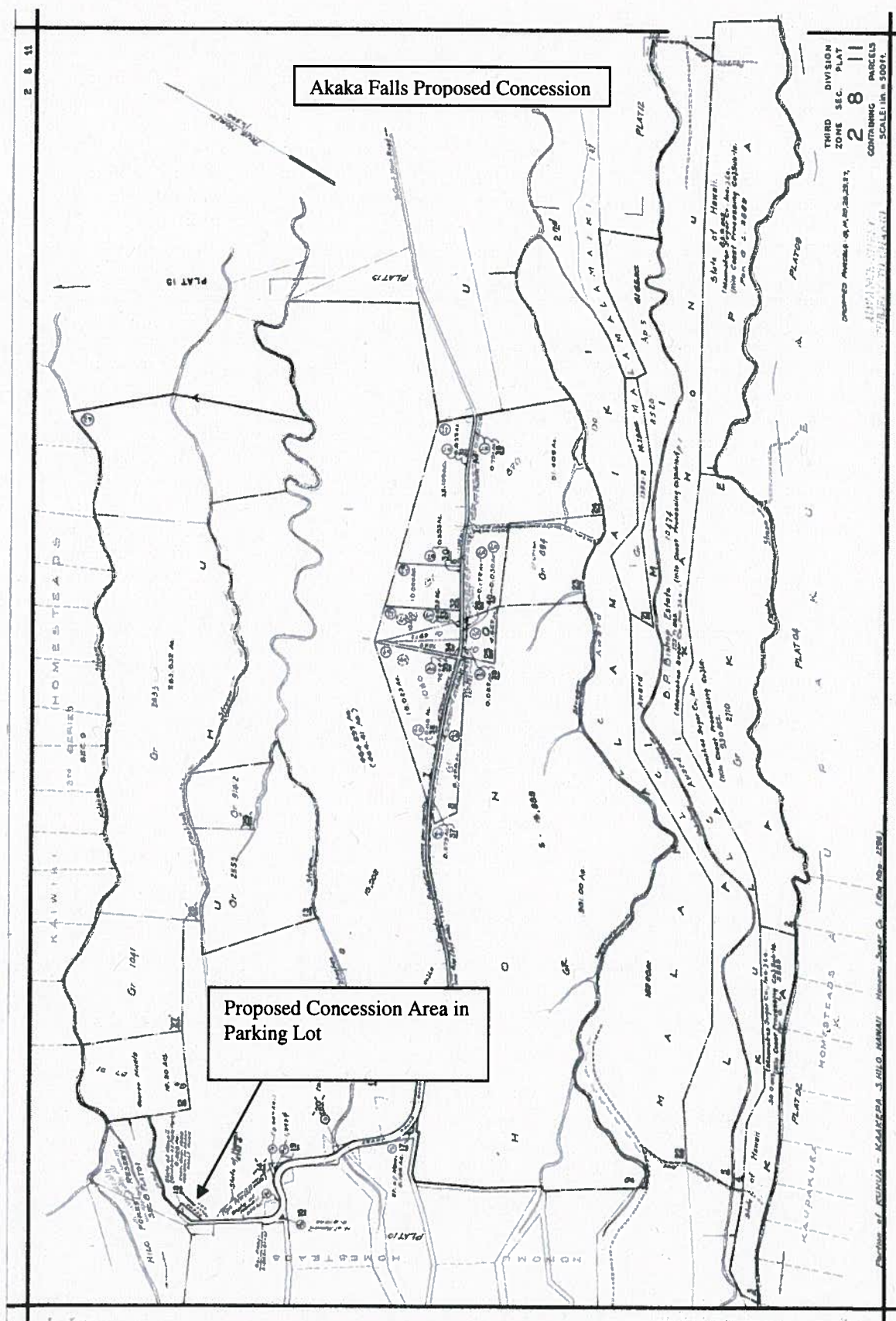


March 13, 2015



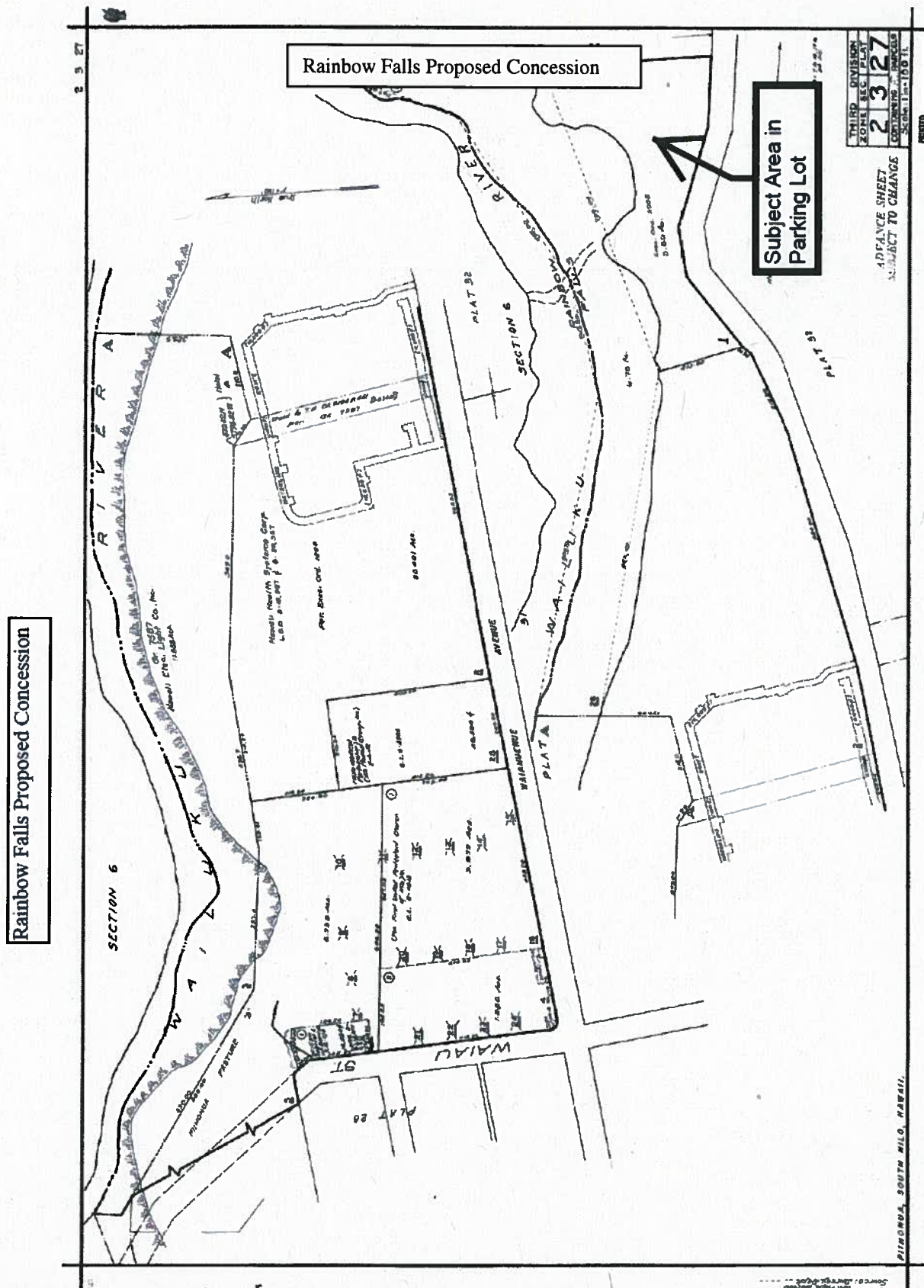
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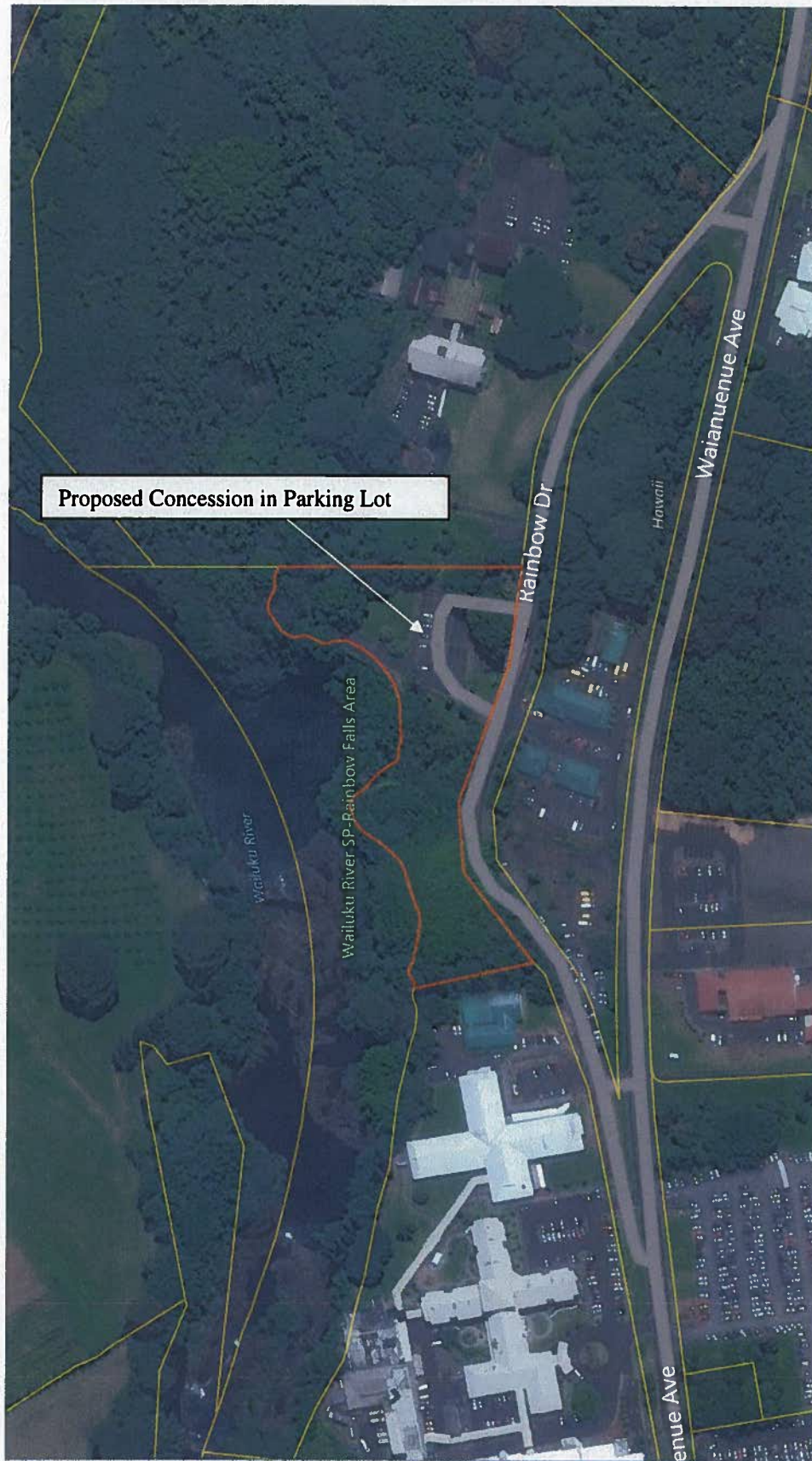


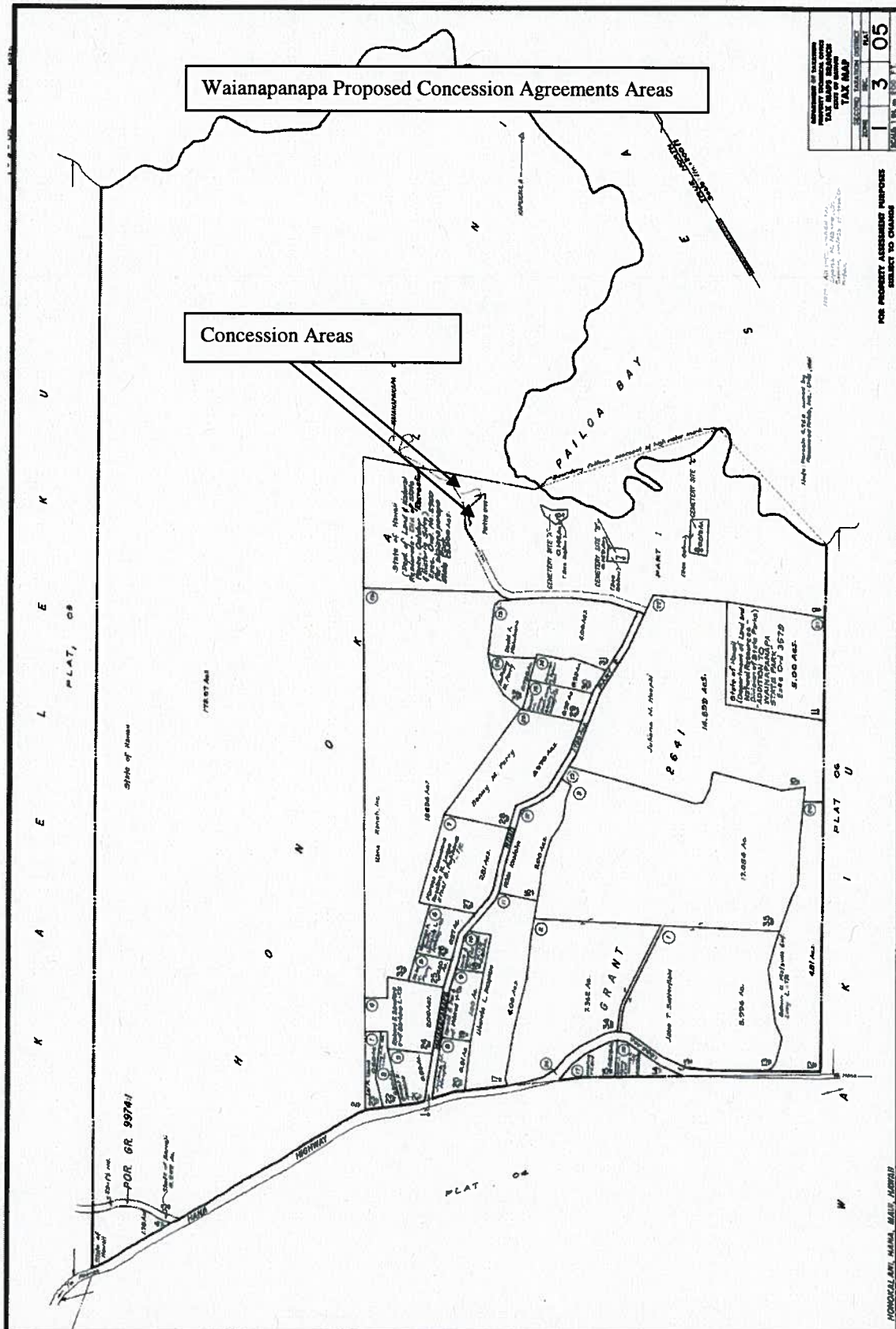
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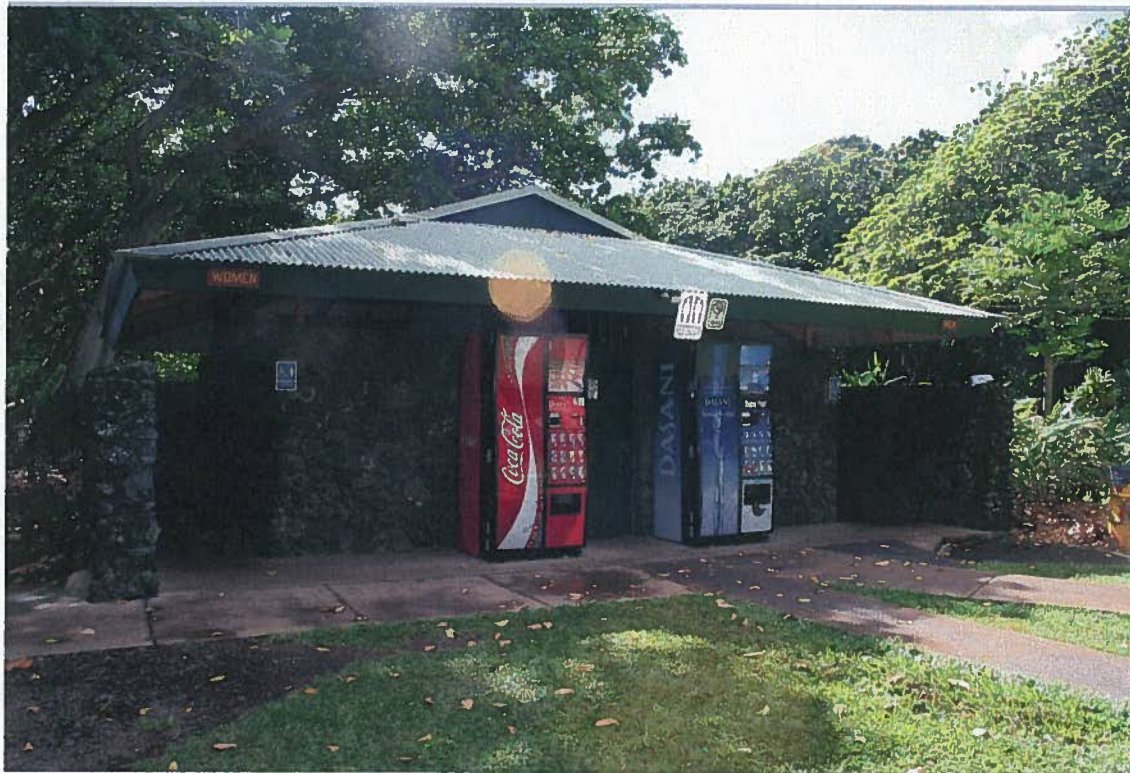


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**EXHBIT B - SP0022 Maui Soda and Ice Works, Ltd., Beverage
Concession Area**



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DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAMOHAKU ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR.

Project Title: Sale and Independent Award of Six (6) Concession and Mobile Concession Agreements by Means of Sealed Bid Auctions and Delegation to the Chairperson to Issue the Invitation for Bids (IFB), Independently Award Each Bid and Give Notice to Proceed for the Following State Parks: (1) Hāpuna Beach State Recreation Area, Waialea Bay Area, for Mobile Food, Beverage and Beach Equipment Rental Purposes, TMK: (3) 6-6-002:031 (por.); (2) Kua Bay at Kekaha Kai State Park, for Food, Beverage and Beach Equipment Rental Purposes, TMK: (3) 7-2-004:009 (por); (3) Akaka Falls State Park, for Food, Beverage and Gift Item Sale Purposes, TMK: (3) 2-8-011:018 (por); (4) Wailuku River State Park, Rainbow Falls Area, for Food, Beverage and Gift Item Sale Purposes, TMK: (3) 2-3-027:001 (por); (5) Waiānapanapa State Park, for Food, Beverage and Gift Item Sale Purposes TMK: (2) 1-3-005:009 (por.) and (6) Waiānapanapa State Park, for Beverage Vending Machine Purposes, TMK: (2) 1-3-005:009 (por.)

Approval to Delegate Authority to the Chairperson to Terminate Revocable Permit No. SP0022 to Maui Soda and Ice Works, Ltd, for Beverage Concession Vending Purposes, Waiānapanapa State Park, TMK: (2) 1-3-005:009 (por.)

Project / Reference No.: SP15STAT01
Project Location: Hawai'i island and Maui
Project Description: Concession Solicitation
Chap. 343 Trigger(s): Use of State Land

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Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 which exempts, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing".

Consulted Parties: DLNR – Land Division, DOBOR.

Recommendation: It is recommended that the Board find that this action will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



CARTY S. CHANG
Interim Chairperson